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John Kilyk, Jr.  
Leydig, Voit & Mayer, Ltd.  
Two Presidential Plaza, Suite 4900  
180 North Stetson  
Chicago, IL 60601-6780

In re Application of :  
Tanaka et al. :  
Serial No.: 10/530,169 :  
PCT No.: PCT/JP03/12711 :  
Int. Filing Date: 03 October 2003 : DECISION  
Priority Date: 04 October 2002 :  
Attorney's Docket No.: 235032 :  
For: PLATE FOR MASS SPECTROMETRY, :  
PROCESS FOR PREPARING THE SAME AND :  
USES THEREOF :

This decision is responsive to the "REQUEST FOR CORRECTED FILING RECEIPT"  
filed 10 November 2005.

**BACKGROUND**

On 03 October 2003, applicants filed international application PCT/JP03/12711, which claimed priority of an earlier U.S. application and an earlier Japanese application, the earliest of which was filed 04 October 2002. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 04 April 2005.

On 04 April 2005, applicants filed a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by, *inter alia*, an application data sheet, an English language translation and a check for the basic national fee. These papers were assigned Application No. 10/530,169.

On 10 November 2005, applicants filed the current paper which included a request for a corrected filing receipt.

### **DISCUSSION**

37 CFR 1.78(a)(2) states, in part:

(i) Except for a continued prosecution application filed under § 1.53(d), any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending nonprovisional applications or international applications designating the United States of America must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (see § 1.14).

(ii) This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371 (b) or (f) in the later-filed international application or sixteen months from the filing date of the prior-filed application.

Applicant is requesting that the filing receipt be corrected to indicate that the international application is claiming the benefit of the prior-filed U.S. application, under the header "DOMESTIC PRIORITY." However, according to this rule, applicant had to include the relationship of the prior-filed U.S. application in the international application. Further, had applicant included that relationship in the international application, then applicant would have had four months in which to amend the first line of the specification of the National Stage application to include that information. Applicant failed to fulfill either of these requirements.

It is clear that the claim to the earlier U.S. application does not belong under the header "FOREIGN APPLICATIONS." Therefore, this reference to the earlier U.S. application has been deleted.

37 CFR 1.78(a)(3) states:

If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed copending non-provisional application or international application

designating the United States of America may be accepted if the reference identifying the prior-filed application by application number or international application number and international filing date was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:

(i) The reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section to the prior-filed application, unless previously submitted;

(ii) The surcharge set forth in § 1.17(t); and

(iii) A statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

If applicant wishes to amend the specification to include the claim to the earlier filed U.S. application, applicant is required to file a petition.

### CONCLUSION

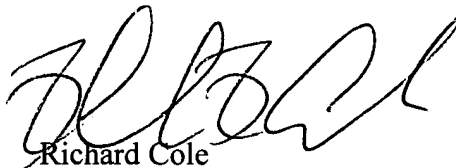
The request for corrected filing receipt is **GRANTED** in so far as deleting the reference to the earlier U.S. application from under the header "FOREIGN APPLICATIONS."

The request for corrected filing receipt is **DISMISSED** in so far as indicating that the international application is claiming the benefit of the prior-filed U.S. application under the header "DOMESTIC PRIORITY."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Debra Brittingham  
PCT Special Programs Examiner  
Office of PCT Legal Administration



Richard Cole  
PCT Legal Examiner  
Office of PCT Legal Administration

Tel: (571) 272-3280  
Fax: (571) 273-0459